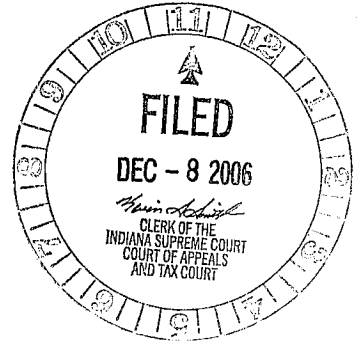


In the  
Indiana Supreme Court



IN THE MATTER OF THE )  
 ) Case No. 28S00-0612-MS-501  
APPROVAL OF LOCAL RULES )  
 )  
FOR GREENE COUNTY )

**ORDER APPROVING AMENDED LOCAL RULE**

The judges of the Greene Circuit and Superior Courts request the approval of amended local rules for appointment of special judges in civil cases in accordance with Ind. Trial Rule 79, case assignments in accordance with Ind. Administrative Rule 1(E), and court reporter services in accordance with Ind. Administrative Rule 15. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendment requested by the Greene Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR28-TR70-02, LR28-AR01-01 and LR28-AR15-11 comply with the requirements of Ind. Trial Rule 79, Ind. Administrative Rule 1(E), and Ind. Administrative Rule 15, respectively, and, accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that Greene County local rules LR28-TR70-02, LR28-AR01-01 and LR28-AR15-11, set forth as an attachment to this Order, are approved effective January 1, 2007, provided further that the rules shall be posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website not less than thirty (30) days prior to the effective date.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. J. David Holt, Greene Superior Court, P.O. Box 445, Bloomfield, IN 47424-0445; the Hon. Eric Allen, Greene Circuit Court, P.O. Box 231, Bloomfield, IN 47424-0231, and to the Clerk of the Greene Circuit and Superior Courts.

The Clerk of the Greene Circuit and Superior Courts is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 8<sup>th</sup> day of December, 2006.

RT Shepard  
Randall T. Shepard  
Chief Justice of Indiana

APPOINTMENT OF SPECIAL JUDGES IN CIVIL CASES

A. PARTICIPATING COURTS: The judges of all of the trial courts within Administrative District 10, as defined by Administrative Rule 3(A), have agreed to serve as special judges in civil cases when required by Trial Rule 79(H). The trial courts within Administrative District 10 are Owen Circuit Court; Monroe Circuit Court, Divisions 1 through and including 9; Lawrence Circuit Court; Lawrence Superior Court 1; Lawrence Superior Court 2; Greene Circuit Court; and Greene Superior Court. By agreement of the trial judges within Administrative District 10, senior judges shall not be appointed, pursuant to Trial Rule 79(H), as special judges in civil cases.

B. FACILITATOR: To provide for a fair distribution of special judge appointments pursuant to Trial Rule 79(H), a Facilitator shall be selected by the judges of the above named courts to assign special judges in civil cases pursuant to Trial Rule 79(H) as needed. The first Facilitator shall be the judge of the Greene Superior Court who shall serve until such time as a subsequent Facilitator is selected. Subsequent Facilitators shall serve for one year, or until a subsequent Facilitator is selected. Facilitators shall be selected at a meeting of the judges of Administrative District 10 during annual meetings of the Indiana Judicial Conference, or upon call of one third of the judges within the Administrative District.

C. ROTATING LIST: A trial court requiring the appointment of a special judge pursuant to trial Rule 79(H) shall seek the assignment of a special judge from the Facilitator who shall advise the court where the case is pending of the name of the next judge on the Assignment List of Judges. The Facilitator shall assign judges from the Assignment List of Judges in the following consecutive order: Owen Circuit Court; Lawrence Superior Court, Division 2; Monroe Circuit Court, Division 3; Monroe Circuit Court, Division 7; Lawrence Circuit Court; Monroe Circuit Court, Division 1; Greene Superior Court; Monroe Circuit Court, Division 2; Lawrence Superior Court, Division 1; Monroe Circuit Court, Division 4; Greene Circuit Court; Monroe Circuit Court, Division 5; Monroe Circuit Court, Division 6; Monroe Circuit Court, Division 7; Monroe Circuit Court, Division 8; and Monroe Circuit Court, Division 9. If the court seeking the appointment of a special judge pursuant to Trial Rule 79(H) is the Facilitator's Court, the Facilitator will appoint the next consecutive judge from the Assignment List, omitting such Facilitator's own name. After receiving the assignment of a special judge from the Facilitator, the Court seeking the assignment shall appoint such judge as special judge pursuant to Trial Rule 79(H).

D. CERTIFICATION TO INDIANA SUPREME COURT: If no judge is eligible to serve as special judge or the particular circumstances of the case warrants selection of a special judge by the Indiana Supreme Court, such case shall be certified to the Indiana Supreme Court.

RULE LR28-AR01-01

CASE ASSIGNMENT

A. ANNUAL REVIEW The Judges of the Greene Circuit Court and the Greene Superior Court shall meet annually to review the weighted caseload statistics of each Court and to comply with Orders of the Indiana Supreme Court concerning case assignments.

B. GREENE CIRCUIT COURT: The following cases shall be filed exclusively with the Greene Circuit Court:

1. Juvenile.
2. Adoption.
3. Guardian.
4. Estates.

C. GREENE SUPERIOR COURT: The following cases shall be filed exclusively with the Greene Superior Court:

1. Small Claims.
2. Infractions.
3. Minor Offenses and Violations.
4. Criminal, if each Count is a misdemeanor or if a Count alleges either a felony or misdemeanor violation of I.C. 9-30-5 et seq.

D. CONCURRENT ASSIGNMENT: The Greene Circuit Court and Greene Superior Court shall receive assignments of all other matters, including:

1. Civil Commitments.
2. Criminal offenses, except cases alleging all misdemeanors or cases alleging either a felony or misdemeanor violation of I.C. 9-30-5 et seq.
3. Civil.
4. Civil and Criminal Cases Transferred from Other Counties.
5. Protective Orders.

from the Clerk of the Greene Circuit Court as follows:

1. Random Draw: An opaque container holding eight (8) separate pieces marked (C) for Circuit and eight (8) separate pieces marked (S) for Superior will be kept in the Clerk's office. When a case is filed, the Clerk will randomly remove a piece from the container. If the piece is marked with a (C), the case will be filed in the Circuit Court. If the piece is marked with an (S), the case will be filed in the Superior Court. A piece removed from the container will not be returned to

the container until all sixteen (16) pieces have been removed. Then all sixteen (16) pieces will be returned to the container.

2. Probation Transfer, Subpoena Duces Tecum, and Search Warrant Cases: Notwithstanding the above, any case that is a probation transfer from another county, or a case in which the State is filing a motion for subpoena duces tecum, or a case in which the State is seeking a search warrant, the Clerk will use a separate opaque container holding an equal number of pieces for Circuit and Superior Courts and file the case randomly consistent with the procedures set forth in the preceding paragraph.

3. Companion Civil Filings: In the event two or more civil cases are identified by the filing party as companion cases, arising from the same circumstances, with similar issues of fact and law, the Clerk will randomly remove a piece from the appropriate container. All companion cases will then be filed in the Court identified by the piece drawn. The Clerk shall then draw from the container an additional number of pieces with the same Court designation so that the total number of pieces drawn equal the total number of companion cases filed.

4. Subsequent Criminal Filings: The Circuit Court and the Superior Court state that the policy of the Courts is to have all criminal felony cases, excluding violations of I.C. 9-30-5 et seq., pending against an individual filed in the same Court. Therefore, when a criminal case is filed which charges an accused with a felony, excluding violations of I.C. 9-30-5 et seq., the Prosecuting Attorney and the Clerk shall determine if the accused has another felony charge pending in either Court. "Another felony charge pending" means both a felony case where judgment has not yet been entered and a felony case in which a Petition to Revoke has been filed. If there is another felony charge pending in either Court, the new charge shall be filed in the same Court where the previous felony charge is pending. When the new felony is filed in the same Court where the previously filed felony is pending, the Clerk shall remove the piece marked "C" or "S", as appropriate, from the container.

E. TRANSFER: The Judge of the Greene Circuit Court or the Greene Superior Court, by appropriate order entered in the Record of Judgments and Orders, may transfer and reassign any case to the other Court, subject to acceptance by the receiving Court.

F. REFILINGS: When the State of Indiana dismisses a case and chooses to refile that case, the case shall be assigned to the Court from which the dismissal was taken.

G. REASSIGNMENT OF JUDGES IN CIRCUIT COURT IN CRIMINAL CASES: The following individuals have agreed to serve in the event it becomes necessary to reassign a felony or misdemeanor case in the Greene Circuit Court: The Honorable P.J. Pierson, Sullivan Circuit Court, Honorable Robert Arthur, Daviess Circuit Court, Honorable Frank Nardi, Owen Circuit Court, and Honorable Thomas E. Johnson, Sullivan Superior Court. By order of adoption of

these rules, the Indiana Supreme Court, pursuant to IC 33-24-6-10, temporarily transfers the above judges to the Greene Circuit Court for the purpose of reassignment of felony and misdemeanor cases. In the event it becomes necessary to reassign a felony or misdemeanor case, the judges will be reassigned in consecutive order to the above noted judges.

H. REASSIGNMENT OF JUDGES IN SUPERIOR COURT IN CRIMINAL CASES:

The following individuals have agreed to serve in the event it becomes necessary to reassign a felony or misdemeanor case in the Greene Superior Court: the Honorable William Sleva, Lawrence Superior Court II; the Honorable Kenneth Todd, Monroe Circuit Court; the Honorable Thomas E. Johnson, Sullivan Superior Court; the Honorable Mary Ellen Diekoff, Monroe Circuit Court; the Honorable James Osborne, Knox Superior Court II; and the elected successor of the Honorable Douglas R. Bridges of the Monroe Circuit Court. In the event it becomes necessary to reassign a felony or misdemeanor case, the judges will be reassigned by the Clerk in consecutive order to the above noted judges.

I. APPOINTMENT OF SPECIAL JUDGE IN CRIMINAL CASES: In the event no judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a special judge. In the event the judge presiding in a felony or misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a special judge, such presiding judge may request the Indiana Supreme Court for such appointment.

COURT REPORTER SERVICES

A. DEFINITIONS. The following definitions shall apply under this local rule:

1. A *Court Reporter* is a person who is specifically designated by a Court to perform the official court reporting services for the Court including preparing a transcript of record.
2. *Equipment* means all physical items owned by the Court or other governmental entity and used by a Court Reporter in performing court-reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.
3. *Workspace* means that portion of the Court's facilities dedicated to each Court Reporter, including but not limited to actual space in the courtroom and any designated office space.
4. *Page* means the page unit of transcript that results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
5. *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
6. *Regular hours worked* means those hours which the Court is regularly scheduled to work during any given workweek. Depending on the particular Court, these hours may vary from Court to Court within the county, but remain the same for each workweek.
7. *Gap hours worked* means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
8. *Overtime hours worked* means those hours worked in excess of forty (40) hours per workweek.
9. *Workweek* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, e.g. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
10. *Court* means the particular Court for which the Court Reporter performs services. Court may also mean all of the Courts in Greene County.
11. *County indigent transcript* means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a Court.
12. *State indigent transcript* means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a Court.

13. *Private transcript* means a transcript, including but not limited to a deposition transcript that is paid for by a private party.

B. SALARIES AND FEES

1. Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising Court during any regular work hours, gap hours or overtime hours. The supervising Court shall enter into a written agreement with the Court Reporters which outlines the manner in which the Court Reporter is to be compensated for gap and overtime hours, i.e. monetary compensation or compensatory time off regular work hours. The following fees shall be effective as of July 6, 2001.
2. The maximum per page fee a Court Reporter may charge for the preparation of a county indigent transcript shall be \$3.50; the Court Reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.
3. The maximum per page fee a Court Reporter may charge for the preparation of a state indigent transcript shall be \$3.50.
4. The maximum per page fee a Court Reporter may charge for the preparation of a private transcript shall be \$3.50. Notwithstanding the above, if a private party requests a transcript to be prepared in less than 30 days, a Court Reporter may charge an additional \$1.50 per page as a surcharge if the surcharge is approved by the presiding Judge of the Court.
5. The maximum per page fee a Court Reporter may charge for a copy of a county indigent transcript, state indigent transcript, or private transcript shall be \$1.00.
6. The minimum fee per transcript shall be \$35.00.
7. The fee for the preparation of the Index and Table of Contents pages shall be at the same rate charged per page for the remainder of the transcript.
8. The Court Reporter may charge an additional labor charge for the time spent binding the transcript and the exhibit binders. The additional labor charge shall be the hourly rate paid to the Court Reporter (as computed by dividing the annual salary paid by Greene County to the Court Reporter by 35 hours) multiplied by 1 ½. If the Reporter preparing the transcript is not a salaried employee, the charge shall be \$15.00 per hour for the time expended to bind the transcript and exhibits.
9. The Court Reporter may charge for the required office supplies purchased by the Court Reporter and used for the binding and the electronic transmission of the transcript pursuant to the Indiana Rules of Appellate procedure 28 and 29. The costs of these supplies shall be determined pursuant to a Schedule of Transcript Supplies that will be established and published annually by the Judges of the Greene Circuit and Superior Courts. If the



Court Reporter desires to use the Court's equipment, work space and supplies, and if the Court agrees to the use of the court equipment for such purpose, the Court and the Court Reporter shall enter into a written agreement which must, at a minimum, designate the following:

- a. The reasonable market rate for the use of equipment, workspace and supplies;
- b. The method by which records are to be kept for the use of equipment, work space and supplies;
- c. The method by which the Court Reporter is to reimburse the Court for the use of the equipment, workspace and supplies.

Such agreement shall be attached to the Schedule of Transcript Supplies and published annually.

10. Each Court Reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

C. PRIVATE PRACTICE

1. If a Court Reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours. In the alternative, if such work is conducted during regular working hours with the approval of the Court, the Court Reporter shall use vacation time or compensatory time to perform such work.

# Greene County Caseload Allocation Plan

## RECOMMENDATION:

It is my recommendation that the Greene County caseload allocation plan be approved as currently submitted. Under current local rules, the utilization difference between Greene County Circuit Court and Greene County Superior court was 0.15 in 2005. This is well below the maximum allowable variance of 0.40 set forth in Administrative Rule 1 (see Table 1). Changes made to the Case Assignment section of Greene County's local rules are primarily grammatical and do not significantly impact the distribution of new filings in Greene County. (Confirmed in phone conversation with Judge Holt on 11/8/2006). Greene County is not required to revalidate their caseload allocation plan until 2007.

**Table 1:** Estimated Weighted Caseload for Greene County trial courts under current plan (Cases filed in 2005)

	Circuit	Superior 1	County Sum /Average
Total Actual Minutes:	115,429	102,921	
Projected Need (year)	1.43	1.28	2.71
Actual Have:	1.0	1.0	2.0
Projected Utilization:	1.43	1.28	1.35

Kris Suthers  
11/8/2006